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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/960,482	09/24/2001	Brian M. Foley	033337/0103	5798
22428 75	90 01/29/2003			
FOLEY AND LARDNER			EXAMINER	
SUITE 500 3000 K STREET NW			LAVARIAS, ARNEL C	
WASHINGTON, DC 20007			ART UNIT	PAPER NUMBER
			2872	

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Application No.			A le				
Office Action Summary	ř	Application No.	(pplicant(s)				
Area C. Lavarias Area C. Lava		09/960,482	FOLEY, BRIAN M.				
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edenation for many be available under the provisions of 3 CFR 1.13(6). In or event, however, may a reply be kinely filed after 3X (6) MONTHS from the maining date of this communication. Edenation for many be available under the provisions of 3 CFR 1.13(6). In or event, however, may a reply be kinely filed after 3X (6) MONTHS from the maining date of this communication. If NO parties for may be specified since, the mainting state of this communication of the provision of the provis	Office Action Summary	Examin r	Art Unit				
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	2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal					

Application/Control Number: 09/960,482

Art Unit: 2872

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, drawn to an equipment rack including a subrack, one or more circuit cards, and a fiber handling track, classified in Class 385, subclass 134.
 - II. Claims 22-31, drawn to a terminal unit including a plurality of optical transceivers and a fiber handling track, classified in Class 385, subclass 147.

The inventions are distinct, each from the other because of the following reasons:

2. Claims 12-21 link(s) inventions I and II. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), Claims 12-21. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

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- 3. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention I has separate utility in a combination without the particulars of Invention II. See MPEP § 806.05(d).
- 4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
- 6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 7. A telephone call was made to Keith Townsend (202-672-5300) on 1/27/03 to request an oral election to the above restriction requirement, but did not result in an election being made. It is noted that the Attorney of Record for the instant application is Marc Weinstein (202-672-5300).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 703-305-4007. The examiner can normally be reached on M-F 8:30 AM - 5 PM.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

Arnel C. Lavarias January 28, 2003

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